IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7409 OF 2007

Union of India & Anr. ..... Petitioners.

V/s

R.M. Deshpande & Ors. .... Respondents.

Mr. R. Raghuvir Singh with Mr. Suresh Kumar for Petitioners.

Mr. C.U. Singh i/b R.G. Walia for Respondent Nos. 1 and 29.

CORAM : D.K. DESHMUKH &
V.M. KANADE, JJ.
DATE : 4th December, 2007.

P.C.:

1. It is an admitted position that the similarly situated employees are already getting benefits. Because the point was not raised earlier, the Petitioners cannot raise it now. If the question could have been raised in defence and if it is not raised, it will amount to constructive *res judicata*. The point cannot be permitted to be raised again and again. In our opinion, if the similarly situated employees have been given benefits because of the order made by the Tribunal earlier, which is confirmed by this Court as also by the

Supreme Court, the Tribunal was justified in making the order which results in maintaining parity among the similarly situated employees.

2. Petition is rejected.

(D.K. DESHMUKH, J.)

(V.M. KANADE, J.)